

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

v.

No: 05-CR-1849 (JH)

DANA JARVIS,

Defendant.

SEALED DOCUMENT

DEFENDANT DANA JARVIS' AFFIDAVIT IN OPPOSITION TO DEFENDANT WILSON'S MOTION FOR RECONSIDERATION OF CHIEF MAGISTRATE GARCIA'S PROPOSED FINDINGS AND RECOMMENDATIONS [Doc. 1153]

STATE OF NEW MEXICO)
) ss
COUNTY OF TORRANCE)

I Dana Jarvis, being of full age, do swear and affirm the following:

1. I am Dana Jarvis, the defendant in the above titled cause.
2. I was placed in solitary confinement shortly after the motion Mr. Gorence filed and argued for me in January 2006 was denied. Even so, once in a while I saw Mr. Gotence after that and spoke with him shortly at RCC in the area where I was allowed to use a computer for looking at discovery.
3. I understood that Mr. Gorence was awaiting the outcome of the motion to release the Mora properties that Joe Romero immediately filed for me, such that retainer money would be available to hire Mr. Gotence and Mr. Kennedy- that was why my CJA attorneys filed the motion for me immediately. I always wanted retained counsel.
4. Mr. Gorence returned the "Jarvis, Dana" file to me while I was in seg at RCC after the Romero motion was denied. I did not get any cover letter or communication saying Mr. Gotence

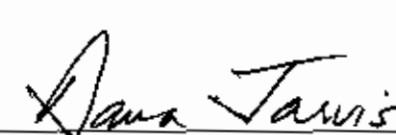
was no longer planning on representing me. I got the documents showing in the privilege log at items 22-31 and 1A-6A. Mr. Romero's motion had been denied when I got the file back from Mr. Gorence, and it was within maybe a month after that it was returned. I still did not have access to my own money or property with Mr. Romero's Motion denied, so I could not come up with Mr. Gorence's retainer. The hope to retain Mr. Gorence remained although I was frustrated with my motions being denied, as Mr. Gorence never told me orally or in writing that he was no longer considering representing me.

5. I was never counseled by Mr. Gorence regarding a conflict of interests when he entered for Mr. Wilson. I never received any letter regarding Mr. Wilson from Mr. Gorence or any written waiver of conflict, so I never signed any waiver.

6. I was present in the court room when Mr. Gorence testified for the government against me on November 20, 2007. Obviously, I could not consider hiring him now or ever again after he has testified against me. I have also reviewed the transcript of the Gorence hearing testimony and it is not a correct reflection of what was going on between us in January of 2006.

Mr. Gorence testified that he was going to enter his appearance only if all the properties were released, but that is incorrect. I understood when we filed the motion that the possibility with the motion was that only the Mora properties could be released right away. I understood that we were trying to get a hearing to get to the other properties listed in the motion. So I had never understood the situation as Mr. Gorence testified to it. The value of all the properties and assets listed in the Motion far exceeded any estimate of a retainer.

7. At some point, which date I do not remember, Mr. Gorence told me he had spoken to AUSA Braun and provided me with a number of years of incarceration he represented that the United States was seeking ~~in~~ plea for me at that time.
D.T.


DANA JARVIS

Sworn to and subscribed before me
on this 7 day of December, 2007.

NOTARY PUBLIC

My commission expires 5-9-11.